

family will be subject to those provisions.

(ii) If the engine family is projected to generate credits, state specifically (manufacturer/engine family or reserved) where the quarterly projected credits will be applied.

(b) All certificates issued are conditional upon manufacturer compliance with the provisions of this subpart both during and after the model year of production.

(c) Failure to comply with all provisions of this subpart will be considered to be a failure to satisfy the conditions upon which the certificate was issued, and the certificate may be deemed void ab initio.

(d) The manufacturer bears the burden of establishing to the satisfaction of the Administrator that the conditions upon which the certificate was issued were satisfied or waived.

(e) Projected credits based on information supplied in the certification application may be used to obtain a certificate of conformity. However, any such credits may be revoked based on review of end-of-year reports, follow-up audits, and any other verification steps deemed appropriate by the Administrator.

[59 FR 31335, June 17, 1994. Redesignated and amended at 63 FR 56995, 57009, Oct. 23, 1998]

§ 89.210 Maintenance of records.

(a) The manufacturer of any nonroad engine that is certified under the averaging, banking, and trading program must establish, maintain, and retain the following adequately organized and indexed records for each such engine produced:

- (1) EPA engine family;
- (2) Engine identification number;
- (3) Engine model year and build date,
- (4) Power rating;
- (5) Purchaser and destination; and
- (6) Assembly plant.

(b) The manufacturer of any nonroad engine family that is certified under the averaging, banking, and trading programs must establish, maintain, and retain the following adequately organized and indexed records for each such family:

- (1) EPA engine family;
- (2) Family emission limits (FEL);

(3) Power rating for each configuration tested;

(4) Projected applicable production/sales volume for the model year; and

(5) Actual applicable production/sales volume for the model year.

(c) Any manufacturer producing an engine family participating in trading reserved credits must maintain the following records on a quarterly basis for each engine family in the trading program:

- (1) The engine family;
- (2) The actual quarterly and cumulative applicable production/sales volume;
- (3) The values required to calculate credits as given in § 89.207;
- (4) The resulting type and number of credits generated/required;
- (5) How and where credit surpluses are dispersed; and
- (6) How and through what means credit deficits are met.

(d) The manufacturer must retain all records required to be maintained under this section for a period of eight years from the due date for the end-of-model-year report. Records may be retained as hard copy or reduced to microfilm, ADP diskettes, and so forth, depending on the manufacturer's record retention procedure; provided, that in every case all information contained in the hard copy is retained.

(e) Nothing in this section limits the Administrator's discretion in requiring the manufacturer to retain additional records or submit information not specifically required by this section.

(f) Pursuant to a request made by the Administrator, the manufacturer must submit to the Administrator the information that the manufacturer is required to retain.

(g) EPA may void ab initio under § 89.126(c) a certificate of conformity for an engine family for which the manufacturer fails to retain the records required in this section or to provide such information to the Administrator upon request.

[59 FR 31335, June 17, 1994. Redesignated and amended at 63 FR 56995, 57009, Oct. 23, 1998]

§ 89.211 End-of-year and final reports.

(a) End-of-year and final reports must indicate the engine family, the

actual applicable production/sales volume, the values required to calculate credits as given in § 89.207, and the number of credits generated/required. Manufacturers must also submit how and where credit surpluses were dispersed (or are to be banked) and/or how and through what means credit deficits were met. Copies of contracts related to credit trading must be included or supplied by the broker, if applicable. The report shall include a calculation of credit balances to show that the summation of the manufacturer's use of credits results in a credit balance equal to or greater than zero, except as allowed under § 89.203(c)(3)(ii). Manufacturers participating under the program described in § 89.203(c)(3)(ii) shall include the NMHC + NO_x credit balance and the PM credit balance as of December 31 of that calendar year.

(b) The applicable production/sales volume for end-of-year and final reports must be based on the location of the point of first retail sale (for example, retail customer, dealer, secondary manufacturer) also called the final product purchase location.

(c)(1) End-of-year reports must be submitted within 90 days of the end of the model year to: Director, Engine Programs and Compliance Division (6405-J), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, DC 20460.

(2) Final reports must be submitted within 270 days of the end of the model year to: Director, Engine Programs and Compliance Division (6405-J), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, DC 20460.

(d) Failure by a manufacturer participating in the averaging, banking, or trading program to submit any end-of-year or final reports in the specified time for all engines is a violation of sections 203(a)(1) and 213 of the Clean Air Act for each engine.

(e) A manufacturer generating credits for deposit only who fails to submit end-of-year reports in the applicable specified time period (90 days after the end of the model year) may not use the credits until such reports are received and reviewed by EPA. Use of projected credits pending EPA review is not permitted in these circumstances.

(f) Errors discovered by EPA or the manufacturer in the end-of-year report, including errors in credit calculation, may be corrected in the final report up to 270 days from the end of the model year.

(g) If EPA or the manufacturer determines that a reporting error occurred on an end-of-year or final report previously submitted to EPA under this section, the manufacturer's credits and credit calculations will be recalculated. Erroneous positive credits will be void except as provided in paragraph (h) of this section. Erroneous negative credit balances may be adjusted by EPA.

(h) If within 270 days of the end of the model year, EPA review determines a reporting error in the manufacturer's favor (that is, resulting in an increased credit balance) or if the manufacturer discovers such an error within 270 days of the end of the model year, the credits shall be restored for use by the manufacturer.

[59 FR 31335, June 17, 1994. Redesignated and amended at 63 FR 56995, 57009, Oct. 23, 1998]

§ 89.212 Notice of opportunity for hearing.

Any voiding of the certificate under §§ 89.203(d), 89.206(c), 89.209(c) or 89.210(g) will be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with §§ 89.512 and 89.513 and, if a manufacturer requests such a hearing, will be made only after an initial decision by the Presiding Officer.

[63 FR 57010, Oct. 23, 1998]

Subpart D—Emission Test Equipment Provisions

§ 89.301 Scope; applicability.

(a) This subpart describes the equipment required in order to perform exhaust emission tests on new nonroad compression-ignition engines subject to the provisions of subpart B of part 89.

(b) Exhaust gases, either raw or dilute, are sampled while the test engine is operated using an 8-mode test cycle on an engine dynamometer. The exhaust gases receive specific component